

# ARKANSAS SUPREME COURT

No. CR 06-107

NOT DESIGNATED FOR PUBLICATION

TOMMY JOE CRAWFORD  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered April 6, 2006

*PRO SE* MOTION FOR EXTENSION OF TIME  
TO FILE APPELLANT’S BRIEF [APPEAL  
FROM THE CIRCUIT COURT OF BENTON  
COUNTY, CR 2001-351-2, HON. DAVID S.  
CLINGER, JUDGE]

APPEAL DISMISSED; MOTION MOOT

## PER CURIAM

Tommy Joe Crawford was found guilty by a jury of possession of drug paraphernalia with intent to manufacture methamphetamine and sentenced to forty years’ imprisonment. We affirmed. *Crawford v. State*, \_\_\_ Ark. \_\_\_, \_\_\_ S.W.3d \_\_\_ (Ark. May 12, 2005). The mandate of this court was issued on June 1, 2005.

On December 27, 2005, Crawford filed in the trial court a *pro se* petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1 seeking to vacate or modify the judgment. The petition was dismissed as untimely, and Crawford has lodged an appeal from that order in this court. He now seeks an extension of time to file the appellant’s brief.

As the petition was indeed untimely, the appeal is dismissed. The motion is moot. This court has consistently held that an appeal of the denial of postconviction relief will not be permitted to go forward where it is clear that the appellant could not prevail. *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (*per curiam*); *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (*per curiam*); *Harris v. State*, 318 Ark. 599, 887 S.W.2d 514 (1994) (*per curiam*); *Reed v. State*, 317 Ark. 286, 878 S.W.2d 376 (1994) (*per curiam*).

Criminal Procedure Rule 37.2(c) requires that a petition for postconviction relief must be filed within sixty days of the date the mandate was issued. The time limitations imposed in Ark. R. Crim.

P. 37.2(c) are jurisdictional in nature, and the circuit court may not grant relief on an untimely petition. *Benton v. State*, 325 Ark. 246, 925 S.W.2d 401 (1996) (*per curiam*). Appellant's petition was filed 209 days after the mandate was issued and was thus subject to summary dismissal.

Appeal dismissed; motion moot.